



MAINE REVENUE SERVICES SALES, FUEL & SPECIAL TAX DIVISION INSTRUCTIONAL BULLETIN NO. 48

RECYCLING ASSISTANCE FEE

This bulletin is intended solely as advice to assist persons in determining, exercising or complying with their legal rights, duties or privileges. It contains general and specific information of interest as well as interpretations and determinations by Maine Revenue Services regarding issues commonly faced by your business. Portions of the Sales and Use Tax Law referred to in this bulletin can be found at the end of the bulletin in Attachment #1. Also attached are applicable Sales and Use Tax Rules.

1. GENERAL INFORMATION

A recycling assistance fee is imposed on the retail sale of **new** tires and **new** lead-acid batteries at the rate of \$1.00 each. Sales of **used** tires and batteries are not subject to the fee. The fee is also specifically excluded from the definition of sales price and is therefore not subject to sales tax.

The recycling assistance fee is not to be confused with the lead-acid battery deposit required by 38 M.R.S.A., 1604 which requires the retailer to charge a \$10.00 deposit to the consumer if no used battery is presented at the time of sale. The \$1.00 recycling assistance fee is in addition to the \$10.00 deposit and applies even though the deposit may not be applicable.

2. INTERPRETATIONS AND DETERMINATIONS:

The following are interpretations and determinations of Maine Revenue Services regarding the applicability of the recycling assistance fee. The fee applies to all items in each category whether used for residential, commercial or industrial purposes unless specifically exempted.

a. Tires. A \$1.00 recycling assistance fee applies to the sale of new tires. As defined in the law, only tires to be attached to a motorized vehicle or trailer are subject to the fee. Please refer to the attachment for definitions of "tire", "motorized vehicle" and "trailer". For purposes of this fee, retread tires are used tires and are not subject to the fee.

"Tires" include those sold for airplanes and lawn and garden tractors. "Tires" do not include those sold for motorized wheelchairs and tricarts and push-type lawn mowers.

b. Lead-acid batteries. A \$1.00 recycling assistance fee applies to the sale of new lead-acid batteries. The law is specific in applying the fee to only batteries which involve

lead and acids. These are most commonly used to store electrical energy for motorized vehicles, such as automobiles, trucks, motorcycles, etc. Please refer to the attachment for the full definition of "lead-acid battery".

"Lead-acid batteries" include those sold for security systems installed in real property. "Lead-acid batteries" do not include those sold for motorized wheelchairs and tricarts.

3. EXEMPTIONS

The fee is applied in the same manner as sales and use tax. Any exclusion, exemption or credit provided in the sales and use tax law also applies to the recycling assistance fee. Thus sales of applicable items to the Federal government, State, county and local governments and other organizations who are exempt from sales and use tax, are likewise exempt from the recycling assistance fee.

Recycling assistance fees imposed on items purchased by holders of direct pay permits should be treated in the same manner as sales and use tax. No fees would be applicable to such sales. However, the purchaser would be responsible for payment of the recycling assistance fees directly to the State just as sales and use taxes are remitted.

In addition, items which are normally subject to the fee when individually sold are exempt from the fee when sold as a component part of other tangible personal property. Any tire or lead-acid battery, sold as a component part of other tangible personal property is not subject to the fee. Situations which may commonly occur include, but are not limited to,:

- a) tires and a battery sold as part of a motorized vehicle, such as an automobile, truck, motorcycle, ATV, construction equipment or farm equipment;
- b) tires sold as part of a trailer;
- c) tires and batteries sold as part of a motor home;
- d) tires sold as part of a mobile or modular home (only if the mobile or modular home is sold as tangible personal property).

4. RETAILERS RESPONSIBILITIES

The recycling assistance fee will be remitted in the same manner as sales and use tax. Retailers responsible for collecting and remitting sales and use tax will also be responsible for collecting and remitting the recycling assistance fee. The retailer is required to maintain records which will indicate the number of items sold in each category of tires and lead-acid batteries and the amount of fees collected in each category. This information must be reported on the Sales and Use Tax Return (Form ST-7) and included with the sales and use tax remittance for the reporting period. Such records must be maintained in accordance with Rule 305 "Retailers Records".

Interest and penalties applicable to sales and use tax also apply to the recycling assistance fee.

5. USE FEE

The statute also provides that new tires and new lead-acid batteries purchased out of State for use within the State are also subject to the recycling assistance fee. Likewise, retailers who withdraw from inventory any of the aforementioned items for their own use, are required to pay the fee.

6. ADDITIONAL INFORMATION.

The information in this bulletin addresses some of the more common questions regarding the Sales and Use Tax Law faced by your business. It is not intended to be all inclusive. Requests for information on specific situations should be in writing, should contain full information as to the transaction in question and should be directed to the:

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ATTACHMENT #1
Excerpts taken from 36 M.R.S.A.

36 §4831. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

2. Lead-acid battery. "Lead-acid battery" means a device designed and used for the storage of electrical energy through chemical reactions involving lead and acids.

3. Motorized vehicle. "Motorized vehicle" means any self-propelled vehicle, including motorcycles, construction and farm vehicles and other off-road vehicles, not operating exclusively on tracks.

4. Tire. "Tire" means the device made of rubber or any similar substance which is intended to be attached to a motorized vehicle or trailer and is designed to support the load of the motorized vehicle or trailer.

5. Trailer. "Trailer" means any vehicle without motive power that is designed to be drawn by a motorized vehicle.

36 §4832. Fee imposed

1. Imposition. A fee is imposed on the retail sale in this State of new tires, new lead-acid batteries, new major appliances, new major furniture items, new bathtubs and new mattresses. The fee is in the amount of \$1 per tire or lead-acid battery and \$5 for major appliances, major furniture items, bathtubs and mattresses. Additionally, fees in the same amounts are imposed on the storage, use or other consumption in this State of tires, lead-acid batteries, major appliances, major furniture items, bathtubs and mattresses purchased new in this State by the user or purchased out of State by the user unless either of the fees imposed by this section has been paid.

1-A Repeal. The fee imposed on the retail sale of new major appliances and new bathtubs is repealed January 1, 1996. The fee imposed on new major furniture items and new mattresses is repealed January 1, 1997.

2. Exemption. Transactions that, under the laws of this State, are not subject to taxation in accordance with Part 3 are exempt from the fee imposed by subsection 1. Sales of any items that occur as part of a sale of a trailer, a mobile home or any motorized vehicle are exempt from the fee imposed by subsection 1.